

STATE OF ALASKA
CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS
JANUARY 30-31, 2015 | JUNEAU, AK
CAPITOL BLDG, CONFERENCE ROOM 106

DRAFT MEETING MINUTES

A record of these proceedings is available at <http://www.360north.org/citizens-advisory-commission-on-federal-areas/> (time stamps are reflective of four separate videos, a.m. and p.m. each day).

FRIDAY, JANUARY 30, 2015

Commissioners Present: Rod Arno, Mark Fish, Teresa Hanson, Representative Wes Keller, Charlie Lean, Kathleen Liska, Mike Meekin, Warren Olson, Susan Smith, Ron Somerville, Frank Woods
Commissioners Excused: Senator John Coghill (staff counsel Chad Hutchinson standing in)

9:03a.m. – Call to Order; Roll Call; Audience Introductions

Approval of Agenda

Time stamp on the recording at 3:04, picked up again at 7:20

Ron Somerville – Move to accept the agenda.
Warren Olson – Second.

Commissioner Opening Comments

Time stamp on the recording at 5:35

Representative Keller [5:50] – The announcement regarding ANWR was a depressing and frustrating thing, for sovereignty, a big deal and concern, the administration's actions make CACFA look good, these are our issues, we have a reason to be proud, things like the "no more clause" has some meaning because of all the work by this commission, commissioners, our directors, the reaction is just beginning.

Executive Director Report – Sara Taylor

Time stamp on the recording at 10:30

- Detailed overview of the meeting agenda, discussion topics and meeting packets
- Brief discussion of Alaska State Lands Advisory Group nomination process

Agency Report from DNR – Ed Fogels, Deputy Commissioner

Time stamp on the recording at 25:30

- New Commissioner-designee, Mark Myers
- New Deputy Commissioner, Marty Rutherford; Bob Swenson retiring
- Bringing new administration up to speed, working on budget reduction issues
- Greater Moose's Tooth-1 project in NPR-A nearing finalization of permitting process; concerns about mitigation, working to see how State can be more proactive in wetlands mitigation
- Monitoring BLM plans and policies, huge Areas of Critical Environmental Concern (ACECs)
- EPA and ACOE Clean Water Act 404 process, some uncertainty and oversight issues
- Regional Working Group headed by Pat Pourchot going well, very helpful, strengthening bonds
- Arctic issues warrant attention, spotlight will continue to increase; Governor appointed Craig Fleener as Arctic Policy representative to engage on these issues

Questions

Q: Charlie Lean [34:48] – DNR and Habitat in ADF&G have acted as clearinghouse to help individuals needing permits to go through the checklist of federal and state permits, that was very much appreciated, for small miners not familiar with those things, having someone explain and list what they need to do, there's an initial shock but having that assistance is a great thing.

A: We've done a lot to improve coordination for big projects, the Office of Project Management and Permitting has done a good job, hard to do that for the small projects, you don't have that system but we try hard and are looking for ways to improve.

Q: Warren Olson [36:27] – Alaska has moved into its own version of sequestration, what is your viewpoint of working with the federal government, we're losing officials and have worked through an ANILCA-knowledgeable generation, dealing with a new generation.

A: That's a huge concern, all state agencies see that, it's great when federal agencies have knowledgeable Alaskans, we try and educate rotating leadership, Sue Magee in the ANILCA shop does a great job educating officials on what's different in Alaska; discussed this with experienced Alaskans in BLM and they note how much things have changed, there's less Alaska depth in these agencies and we have to work around and work through that.

Q: Rod Arno [38:51] – do you know what will happen to Roads to Resources

A: No, given the fiscal climate, there is a pause on the more significant infrastructure projects, we have not had much opportunity to discuss that with the Governor; we still have some capital moneys to build more timber roads and we stand ready to help, a lot of good projects to open up access to resources

Q: Kathleen Liska [40:17] – at our Federal Overreach Summit, you advised to monitor Arctic issues, and we have expanded looking to include the Arctic, with the budget as it is, how does CACFA, ANILCA and PAAD, is it a priority for the administration to keep these programs moving forward, with these cannonballs coming at us with some of these access and management issues

Follow-Up Q: Representative Keller [41:10] – CACFA is unique in that half are appointed by the Governor and half by the Legislature, all volunteer basis, and I would hope and trust our Governor and new Commissioner of DNR would take that into account, that we are different than other parts of the budget, it would surely be a priority to begin to work this if there is any indication of that

A: Challenging to talk about budget implications at this point, but if anything, I see an expanded role of CACFA, become more important and more at the forefront; with Arctic stuff, there is this impression in D.C. that nothing is happening up there, we need to explain we are the experts on development there, we have some of the world's leading experts on permitting cross country travel in the Arctic, we do not need to reinvent the wheel; push in D.C. to protect everyone from development in the Arctic, we need to educate them that we protect communities through development, which they need, it's amazing the number of Arctic groups, initiatives, agencies operating today

Comment: Representative Keller [44:43] – we are here to listen to the citizens of Alaska and not necessarily pick up any given issue that is in front of us, that is our mission, we are here to listen to Alaskans and report their issues and concerns back to the Legislature and the Governor

Q: Ron Somerville [46:34] – we see more and more navigable waters and submerged lands issues, you were discussing federal regulation in state and navigable waters, are we doing a good job of giving ADF&G, DNR and DOL priorities and indications of how important this is

A: We've been doing a good job overall in the last few years, and we have to do a much smarter job with less resources, reengineer the way we operate, you'll see budget reductions this Legislature without much strategy, we can't drop some statehood issues, but how we go about it will be tough

Outreach Subcommittee Report – Susan Smith

Time stamp on the recording at 49:14

- Multiple resources provided in subcommittee packets handed out at work session
 - o Includes minutes of each weekly teleconference
- Canceled contract with public relations firm on its closure
- Concerned about CACFA Library; working on digitization project
- Brochures (“Fact Sheets”), finalized review and edits
 - o Would like to phase in and out, get a broad range of information
 - o Base information provided in the fact sheets on target user groups
- Have a video camera and are documenting Alaskan stories
 - o Have several videos done and interviews lined up
- Report from AFN and Arctic Policy Commission – Kathleen Liska [56:26]
- Report from Laundry House Gang meetings – Teresa Hanson [59:06]
- We’d like to have more outreach meetings in the communities, get one-on-one feedback
 - o Tailor powerpoints to individual user groups and affected areas
- Believe more summits are important, encourage them
- Continue to build mailing list and list of organizations to be ready for media launch

Questions

Q: Rod Arno [62:44] – with the ability to get out the fact sheets, is there a way to record any response back, see that people have seen them, heightened interest in what CACFA is doing

A [Kathleen Liska]: we need to be technological about feedback, we’re focused on that, stalled a bit on engaging with social media, have access issues, commissioners cannot post, need to be DNR employee; groundswell of interest in connecting people on this subject, #ThisIsOurAlaska just started

Follow-Up Q: Representative Keller [64:65] – does the proposal before us address that, DNR has to have some control, is that addressed in the proposal

A [Susan Smith]: yes, the proposal talks about social media, how to get our information out there, our digital information, some of the problems will be solved with the media proposal

Q: Warren Olson [69:54] – what are our standards for getting other groups involved

A [Representative Keller]: Put the answer to that off because it will be addressed; an idea that we can somehow control outreach to stay consistent with our mission

A [Teresa Hanson]: We’re in a unique time because the administration’s recent announcements have done more for our cause than we could do in a year, but we need to take advantage of the snowball effect; agencies and groups take our information back to their members, this stuff is going out but we need to start looking at some mass printing

Comment: Sara Taylor [72:47] – just to clarify that opportunities for outreach during this heightened interest in the federal administration’s actions are like low-hanging fruit; ANWR CCP issued and OCS closures to leasing at the same time, CACFA invited to present at the Senate Resources Committee about the implications from those actions to Alaskans, incredible to have CACFA tapped for that, I feel very grateful this commission is the one being asked to advise decision-makers because we come from a place of understanding, the big picture, the institutional memory, not just emotional reaction but a long deliberative effort dealing with these issues over the years

BREAK

Time stamp on the recording at 75:50

Reconvene

Time stamp on the recording at 94:15

Comment: Chad Hutchinson [95:08] – have been conferring with Senator Murkowski’s office the past few days, considering legislation putting a time limit on wilderness recommendations which failed; be mindful of that we need educate non-Alaskan senators and representatives, 3-minute videos on ANILCA can give people with influence some ideas on what the provisions are and why they really matter, in the age of smart phones and multiple distractions; know your audience, young to old, leaders to advisors, easy to absorb quickly and move on to the next issue

Follow-Up [Representative Keller]: thoroughly agree; we build our own communication systems that mean something to us but not elsewhere, having talking points to make decisions is great

Budget Update – Karrie Improte (by phone)

Time stamp on the recording at 98:05

- Memo from January work session on funds we have and how they are tracked
- Reminder we have two budgets that are tracked: operating (\$283,300) and project (\$200,000)
 - o Operating broken into: personal services, travel, services, commodities
 - o Project funds to be spent over a two-year period for “Federal Overreach” expenses
- Please advise on better ways to present budget information to the commission

Participation in the American Lands Council Summit in Salt Lake City – Susan Smith

Time stamp on the recording at 103:15

- Two days, very large contingency from Alaska (largest single-state delegation)
- Broke into different groups on second day – commissioners went to “litigation” and “education”
- Canadian provinces have already finalized “devolution” (transfer of public lands)
 - o Provinces offered corollary jobs to national government employees and they took them, en masse, the entire group save a few retirees
- Mead Treadwell issued a “plan” to facilitate transfer of public lands in Alaska
 - o CACFA should establish an advisory group and host a wetlands summit
 - o Write to Governor and Department of Law and inquire whether our statehood compact precludes transfer of public lands and if so do we have other grounds to demand it
 - o Study five or six areas of concern in detail, including economic implications
 - o Pass legislation asserting state control and authority, enact a law asking for lands
 - o Join American Lands Council and support federal bills in other areas
- In 1977, had 5000 federal regulations; today, have 87,500
- Federal government changed policy of land “disposal” to land “retention” in FLPMA; they believe the law is unconstitutional under the equal footing doctrine
- Distinct representational disadvantages occur when you have restraints on population growth
- It’s also an eastern state issue, since federal government operates at a loss in this approach to lands in the western states (footing the bill)
- Alaskan issues are gaining traction nationally through this network
- Promoted education and aligning organizations, help develop proposed legislation for enactment
- Closed with a news conference, available online (search for “October 9, 2014 ALC Summit”)

Questions

Q: Ron Somerville [122:20] – was there any discussion of how this effort differs from the Sagebrush Rebellion and whether we’ve gone through this before, it’s a great idea but odds on actually transferring these lands, have to ask to determine how much effort to put into this, as an uprising or a complaint

A [Susan Smith]: In 2013, the U.S. Supreme Court overturned a 9th Circuit Court decision in the Otero case based on the equal footing doctrine, so we have a recent case “win” showing it is do-able; it would be great to see states coordinate litigation and/or legislation, make a powerful statement

A [Kathleen Liska]: Created ASLAG to determine if this is something worth pursuing; as Mead Treadwell travels and sees this happening nation-by-nation in other parts of the world, it’s not new and it’s a viable solution, but looking at items on our Federal Overreach Summit report card, how many would this solve, the advisory group will help us answer that, how to handle the bureaucracy completely changing hands, we do not know the answer to these questions but we have some good models to follow

Follow-Up: This issue has been around for a while, you’d think some sort of concrete litigation strategy would have been developed, but there’s just one instance where the U.S. Supreme Court ruled in our favor, doesn’t mean all the lands are going to transfer, when do we get to the point where case law or Congress force the federal government to act

A [Representative Keller]: We have a better chance with legislation than litigation, that was one of the points during the “litigation” break-out session; it would behoove us to contact the Congressional delegation and get an update on pending legislation in Congress dealing with state rights, get a perspective on what is happening nationwide

Q: Mark Fish [128:58] – interested in legislation instead of litigation, federal judges does not seem to be a winning avenue; interested in any templates or pending actions in other states that would benefit us, anything all ready and being sponsored that we can get on board with

A [Kathleen Liska]: There isn’t national legislation because states are individually getting organized and building a coalition so that we can fight together, it will take a coalition and not individual states; South Carolina passed legislation to support this, and western states (e.g., Utah, Nevada); there’s a timing issue, too, of people who were not around for the Sagebrush Rebellion, it’s a force being built but also some caution, thoughtfulness, boldness

Follow-Up: There’s no federal legislation right now on the transfer of public lands, and to capture attention to the issue, something like that needs to happen; would like to see our delegation come up with something that other states could support, take a leadership role in that

A [Kathleen Liska]: The packets have federal legislation Senator Murkowski and Representative Young have put forward on transferring lands in the Tongass

Comment: Frank Woods [133:08] – what you did in Utah is a model on what CACFA needs to do, break internal processes out into interests/topics in a solutions-based model, then tie it all in, hard to categorize all the things that are thrown at us; let’s not bite off more than we can chew, you started something here with this outline, let’s look at cooperative management, too

Comment: Warren Olson [136:50] – only been a state for 55 years, compared to North Carolina we’re still apprentices, but we’ve been involved in political mischief since statehood; the main gun in this equation is the Governor, should focus education there, we have had administrations ignore the courts, need to get a position from him; the fact is there are going to be some real changes due to budget issues

Media Advisory Plan, Revolution Media Proposal – Susan Smith & Kathleen Liska

Time stamp on the recording at 140:34, picked up again at 152:03

- Proposal is on the table to allot \$1200 to Media Advisory Plan, with other items along the way that we can dedicated funds to, e.g., producing videos, streamlining websites, media platforms
 - o Will include who is our audience for specific issues, in-state resources that we can use
- Proposal is on the table to allot \$1500 to Social Media, sites and content ready-to-launch
- Proposal is on the table to allot \$1700 to Viral Video Production (2), recommend Chad’s idea on a 3-minute ANILCA, Susan’s interview, content from Federal Overreach Summit
- Proposal is on the table to allot \$3650 for the Website, preset to receive social media links

11:30a.m. Public Participation

Time stamp on the recording at 144:55

No one on the phone or in the room

Picked up again at 158:40

Karen Gordon – is on the Board of Directors for the Wild Sheep Foundation, but this is personal testimony not on their behalf; concerned about NPS Sheep Conservation Plan in Gates of the Arctic National Park, usurping state authorities, some ANILCA issues involved, think that some agency of the state needs to remind them that managing wildlife is a state responsibility, management plans exist for the entire Brooks Range, it's a power move; a federal agency did something similar for elk in Idaho, a state agency told them to back off and that agency did so and didn't attempt anything like it again

Comment: Warren Olson [161:24] – you and I have talked about sheep for a long time, is anyone working with the Secretary of the Interior and D.C. Park Service, want to refer to Baldwin v. Montana which clearly states that management of wildlife is a state authority, great example

Comment: Representative Keller [163:05] – recommend you contact our director and give her the specifics on the phone on usurping state management authority, that is certainly something we deal with

Comment: Sara Taylor [163:33] – it is my understanding the Gates of the Arctic Dall Sheep Management Plan has not been released to the public, please come and talk to me when it is and I always recommend commenting on these things when the comment period is open

Follow-Up [Karen Gordon]: I contacted Sue Magee and she says ADF&G knows about it but there is no comment period; it doesn't matter, it just needs to go away, it's not about waiting for public comment

Follow-Up [Sara Taylor]: The reason I mention that it is a draft is that it may never be released, leave your information with me when you call and I will make sure you are notified if it is issued to the public

Joshua Matrisciana [165:30] – staff, Revolution Media, calling in to answer questions on the proposal

Q: Charlie Lean [166:18] – seems like there are continuing costs besides the initial fee, how long would those continue and what do they pay for

A: This is the initial proposal to develop a Media Advisory Plan where we would go much more in depth on these features, these are ongoing matters that need administration and we'd like to work with CACFA staff so they know what to do and how to post and respond to things; we just did not know whether there was personnel available yet, until we get to that point we're offering our services to do it

Q: Ron Somerville [170:15] – are these in order of priority

A: Yes, the Media Advisory Plan is the first step, and that will involve continued communication getting details and specifics on services you'd like rendered, the next one (the Social Media) and the Website development would go hand in hand and the last one would be Video Production

A [Kathleen Liska]: Our priority is social media and video, which we need out right now, but it's not in order, for us, in here; regarding the monthly fee, the little bit that I have been doing, this is labor intensive, to keep information flowing, and the key with social media is a constant stream of information, tracking what is happening with our legislature, agency responses, pulling that information in and feeding it to social media takes effort, they have the capability to do that until we get someone

Q: Teresa Hanson [172:48] – how long will the Media Advisory Plan take

A: These things usually take about two weeks

LUNCH

A record of the afternoon proceedings is available at <https://vimeo.com/122805906>, pending upload to the link noted above

Reconvene

Time stamp on the recording at 0:05:49

Agency Report from BLM – Lesli Ellis-Wouters, Chief of Communications

Time stamp on the recording at 0:06:10

Resource Management Plan Updates: Eastern Interior

Time stamp on the recording at 0:07:55

- Six years into the process; possible release of draft later this year
 - o Expected Record of Decision in 2016
- Issues: ANCSA withdrawals, travel management, minerals, subsistence, habitat, wilderness character, Wild and Scenic River eligibility, Areas of Critical Environmental Concern (ACECs)
- Separate Federal Register notice announcing additional ACECs
- Retain ANCSA withdrawals in Upper Black River sub-unit, pending new withdrawals
- New Preferred Alternative E, due to land conveyances during planning

Resource Management Plan Updates: Central Yukon

Time stamp on the recording at 0:09:08

- Scoping period closed in 2014; possible release of draft later this year
 - o Expected Record of Decision in 2017
- Issues: Dalton Highway uses, minerals, ANCSA withdrawals, TAPS modification
- 34 proposed ACECs

Resource Management Plan Updates: Bering Sea-Western Interior

Time stamp on the recording at 0:09:40

- Scoping period closed in January 2014; possible release of draft later this year
 - o Expected Record of Decision in 2017
- Issues: subsistence, ANCSA withdrawals, Wild and Scenic River eligibility, minerals impacts of climate change, ACECs
- Held community draft alternatives workshop in January 2015

Placer Mining Instructional Memoranda

Time stamp on the recording at 0:10:13

- Not new, just clarification of existing federal regulations, learned from evolving science
- Targets reclamation and what it should look like
- Dialogue is still ongoing

Questions

Q1: Charlie Lean [0:11:50] – ACECs in Unalakleet drainage area, kind of discontinuous

A: Not familiar with that specific one, ACECs drawn on ecological boundaries, will get answer

Q2: Placer mining rehab, several things to do with riparian habitat, ironic to plant exotic vegetation to rehabilitate, easy enough to cut willows and plant them, or other native species; number of examples

where habitat has been improved, look to those examples, balancing act of creating channels, overflow zones, grading flat is not desirable, even though it's a standard

A: Forgot to mention pilot project in Jack Wade Creek, historically mined rehab project in collaboration with the mining community to determine best management practices

Follow-Up: having water in the summer does not mean having water in the winter, if you want fish, you need winter refugia; suggest drawing on agency memory, staff

Q: Rod Arno [0:16:50] – ACEC process, plan is open for comment, any individual can nominate and then the agency can develop that proposal and put it out to the public

A: Anyone can nominate an area but it has to meet certain characteristics (relevance and importance)

Follow-Up: No place in Alaska wouldn't meet those qualifications

Q: Warren Olson [0:18:12] – experience with BLM in the past prior to coming to Alaska, what is your specialty within BLM and where have you worked

A: Elko District for 4 years, prior to that was 23 years in public affairs as active duty Marine

Follow-Up: Alaska is recognized as a crown jewel, in your brief time in Alaska, are we unique in the depth and width of studies, things we run into, or is that nationwide

A: Alaska is unique but not unique in that, want to focus on better communication with the public, providing for multiple-use does not please everyone

Follow-Up: Assigned to BLM committee on property, meet once a year with Director Cribley, tendency appears to be long-term studies with high staff turnover

A: Going through Planning 2.0 which will update processes, possibly rewrite planning handbook and updating federal regulations; visit website, hoping for proposed rule out this spring

Q1: Mark Fish [0:22:28] – who owns the lands that BLM manages

A: You do, the public

Q2: Where is the science/research done, by whom

A: Staff and collaborative efforts

Follow-Up: Examples of collaborative efforts/partner organizations

A: In Nevada, Trout Unlimited, Nature Conservancy, Nevada Big Horns, tribal partners

Follow-Up: Interaction with the mining community, some of these are mom & pops but these pictures are much more large scale, what elements of the community are most involved

A: Alaska Miners Ass'n, presented at 2014 conference, dialoging with Fortymile Miners Ass'n

Q: Frank Woods [0:24:28] – process became a problem in Bristol Bay, is it still the same in the draft comment period that if you didn't comment on that exact plan, or word it right, then you do not have standing in the second round or approval

A: Scoping with everyone, draft plan has comment period and, if you submit, they all get counted and read, but if it does not meet the criteria for what the plan addressed, it does not get included in the final; if you do not comment during scoping that does not mean you cannot comment at any time, we take comments at any time on anything; I am willing to take those comments and concerns to leadership

Follow-Up: Frustration in Alaska with so many users and designations, agency ANILCA knowledge, that's why CACFA is here, has BLM thought of doing things differently, slow things down a little (e.g., not every five years), collaborate more, not just hand us things, so we're not always just reacting

A: That frustration really prompted the Planning 2.0 effort, trying to make processes more efficient; don't usually get asked to slow down, not everyone goes through these plans as often as Alaska

Q: Rod Arno [0:30:46] – look at filter of ANILCA going through Planning 2.0; plan across landscapes, does that mean plan across other land designations, what does that entail

A: Managing for the landscape regardless of land status, not stick to planning areas, equate to wildfire

Follow-Up: Does the authority of BLM extend across property owned by others, if managing beyond the boundaries

A: No, we just manage our lands, public lands, on a larger scale; will get a better answer, want to clarify it does not mean BLM has jurisdiction over land that does not belong to us

Q: Kathleen Liska [0:32:53] – Planning 2.0 is nationwide, is there any Alaska-specific addendum separate from the lower 48 and how planning is done there

A: Nationwide, yes, but one of our planners, Serena Sweet, can answer that, will get answer

Q: Ron Somerville [0:33:33] – FWS and NPS have changed wildlife management policies, modified plans, are there any attempts to follow that

A: Not that I'm aware of

Agency Report from FWS – Mitch Ellis, Regional Chief of Refuges, and staff (by phone)

Time stamp on the recording at 0:35:23

Strategic Growth Policy, Land Acquisition – Sarena Selbo, Deputy Chief of Refuges (by phone)

Time stamp on the recording at 0:37:46

- Published on January 15, 2015 in the Federal Register
- Refuge Improvement Act requires growth of the system nationally
- Draft published in January 2014, took public comments
- Lays out priorities of how to establish new refuges and expand existing boundaries; largely biological based, three main tenets:
 - o Recovery of threatened and endangered species
 - o Implementing North American Waterfowl Management Plan
 - o Conserving migratory birds of conservation concern
- In Alaska, do not establish new refuges; Alaska's realty program allows acquisition of inholdings in existing boundaries, ANILCA requires willing sellers, most work is on land exchanges

Questions

Q: Mark Fish [0:40:40] – who are some of your partners

A: Work closely with NGOs like Nature Conservancy, Defenders of Wildlife, AFWA and the State, received comments from friends organizations and industry

Q: Frank Woods [0:41:44] – is this just on refuge lands, if nationwide initiative is to grow

A: Policy is a national policy for national system, so it's how the system expands, but only allowed to do that in the lower 48, will not be establishing new refuges in Alaska

Q: Charlie Lean [0:43:14] – primary charge appears to be to manage fish and wildlife opportunities for consumptive uses, hunters and fishers are significant stakeholders, majority of refuge lands are in Alaska, always disturbing to see decision-makers are often remote from Alaska and affected stakeholders, is there any program within the Service to familiarize decision-makers with Alaska issues

A [Mitch Ellis]: Service has turnover but there are a lot of employees who have been in Alaska for a long time, e.g., Chief of Realty is a lifelong Alaskan; training programs for management are in place (ANILCA Training Course, detail opportunities to get people out to field stations, attend RAC meetings) to orient new employees; value broad perspectives and diverse skill sets; new Deputy Director of the Service, Jim Kurth, former ten-year manager at Arctic Refuge, has extensive Alaskan experience

Follow-Up: is it 85% of the Service's acreage in Alaska, given that distribution it seems like there would be a satellite office here, encourage you to keep trying, number of great employees here, but there

are instances of startling decisions (e.g., Unimak caribou are expendable), animals shift their range to new places that are not normal, say an environment is transitioning, making decisions to stop things there need to be discussed with those concerned

Q1: Representative Keller [0:49:20] – how do we keep track of lands being considered, inholdings being offered by willing sellers, is there a way to keep informed about that as it happens

A: We keep in close contact with interested parties

Q2: In Izembek, wasn't the State a willing seller of a lot of land, how does that fit with the policy

A [Mitch Ellis]: Good question, because usually land exchanges are very small scale, mostly around villages; land exchange is a large part of the realty program, do equal value land exchanges, do not actively seek out land exchanges, typically; very site specific about need of local communities; Izembek was legislatively mandated study to evaluate public interest in that land exchange, very large scale exchange of lands for the road corridor; it was very unique decision process, not a typical scenario

Follow-Up: What criteria were used to say you would not expand at this time

A [Mitch Ellis]: Mandate required determination of the impacts and the Secretary would decide if it was in the public interest to proceed; criteria involved wildlife resource values, feasible alternatives to the road corridor, impacts to subsistence, wilderness impacts, gamut of impacts road corridor might have

Follow-Up: Was there some legislative authority to say no to the exchange

A [Mitch Ellis]: Legislatively mandated study requiring Department make that decision

Q Ron Somerville [0:55:00] – Very familiar with Izembek, refuge would be worthless without State-owned eelgrass beds; would the refuge be interested in exchanging beds for that corridor

A [Mitch Ellis]: Can't really answer that, but it is a good point that the eelgrass beds are key to the habitat values of that area, why the wildlife come; combination of eelgrass beds and the upland habitat and the juxtaposition of that set of habitats that make it that unique and valuable, especially for migration, focused waterfowl populations; state has done a great job regulating harvest in that area

Proposed Rulemaking for Predator Management on Alaska Refuges – Heather Tonneson (by phone)

Time stamp on the recording at 0:57:38

- Considering regulatory changes, three main components:
 - o Prohibit predator reduction activities with the intent or potential to alter natural diversity, such as artificially increasing or decreasing populations to create harvest opportunity
 - o Identify take practices under general hunting, trapping that are inconsistent with Service laws and policies and as such would be prohibited on refuges in Alaska
 - o Update procedures for closing areas or restricting activities to provide consistency and more effectively engage the public
- Service must maintain natural diversity, biological integrity and health, subsistence way of life
- State decisions have become in conflict with Service management and mandates
- Proposed regulations would:
 - o Clarify existing conservation of natural diversity, biological integrity and environmental health, in relation to predator harvest
 - o Predator reduction activities which would alter that would conflict with refuge administration and could not be allowed on refuges in Alaska
 - o Methods and means for predator harvest would be prohibited, five being considered:
 - Take of bear cubs or sows with cubs, exception for resident hunters with customary and traditional use at den site in specific GMUs at specific times
 - Take of brown bears over bait
 - Take of bears using traps or snares
 - Take of wolves or coyotes during spring and summer denning season
 - Take of bears from aircraft or same day airborne

- ANILCA refuge purposes and Title VIII provide for subsistence, consistent with natural diversity, these prohibitions would not change or supersede Federal Subsistence Board authorizations (e.g., take of brown bears over bait in GMU 25D)
- Still support sustainable harvest of predators; regulations only apply to refuge lands/waters
- Have been holding government-to-government relations with tribes and the State
- Plan to release proposed rule and Environmental Assessment in March 2015, 60-day comment period likely to begin in April

Questions

Q: Frank Woods [1:04:18] – attended presentation in December on this proposed rule, this would be passed by the Federal Subsistence Board

A: No, this is a separate process, reaching out to RACs and updating local communities, would not supersede or affect current or future Federal Subsistence Board regulations

Follow-Up: Who is your representative on the Federal Subsistence Board

A [Mitch Ellis]: Geoff Haskett, our Regional Director, is the representative for our agency; to clarify, these are agency regulations, they are not federal subsistence regulations and will not affect them, there is a challenge in that because people do their subsistence living under both federal and state regulations

Follow-Up: It's almost like we're getting handed and reacting to a nationwide initiative and a federal mandate to protect wildlife, natural diversity, scenic, whole gamut of that initiative, noble as it is, it will impact subsistence resources, we're competing with predators; every area of the state has a huge problem with competition for resources, the Service is doing a good job presenting this, but I don't feel like I have any say, this environmental assessment doesn't go back far enough, the predators have gotten so bad that subsistence opportunities are reduced, state is trying to help, how far back do you go to establish natural diversity for these areas

Q: Rod Arno [1:10:01]: on the potential updates, the one on criteria at 50 CFR 36.42(b), looking to add conserving natural diversity, biological integrity and environmental health, equating those with ANILCA purposes, is there a move to amend ANILCA to add these to the purposes

A [Mitch Ellis]: In ANILCA Title III, all refuges have a natural diversity purpose, so complying with the biological integrity policy, which comes from the Refuge Administration Act, clarifies that we manage wildlife and habitat on refuges that mimic natural conditions, often know more about what it isn't than what it is, and manipulating predator populations beyond how they would be naturally to provide hunting opportunity is inconsistent, we are clarifying that in regulations; what this means for subsistence users can be a concern, since we have a subsistence purpose and mandate, but predators are a subsistence resource, too; we manage for all wildlife, not just a select few; we do not have a proposed rule yet, I know the NPS has one, we'd like ours to clarify existing mandates on how we treat predators on national wildlife refuges in Alaska

Follow-Up: On the January 15 publication, paragraph 3, does not mention non-rural Alaskans and rest of the nation's citizens

A [Mitch Ellis]: When there is a shortage, the rural residents have priority; we do have an obligation and our policies and regulations state our "Big 6" priority public uses are facilitated, we treat them as special uses, and it includes hunting; people from all over the country can enjoy those resources, but ANILCA intended to make limited resources available to subsistence users first, dual management, we have an obligation to protect federal subsistence opportunities

Q: Charlie Lean [1:15:30] – there's been a Lean in rural Alaska for more than 100 years, and subsisting, and several of us on this commission have degrees in wildlife management, isn't diversity a relationship between the predator and the prey, shouldn't it be a proportional thing, not just a population number; the State is mandated to do sustained yield and not drive populations to extinction, shouldn't

that be the Service's mandate as well; we maintain predators at peak levels while prey vacillate wildly, is not natural; would like to see a better definition of what is "natural," seems arbitrary

A [Mitch Ellis]: It is a difficult concept to define, and we have gotten our partners together and our policies and tried to spell this out clearly – for example, we would define biological diversity as a variety of life and processes at different levels, a relationship and not a static number, including natural processes; in Alaska, we have an additional obligation to include the human element, and that's subsistence users; we're not saying it's all hands-off, what we're trying to do is stay true to the mandate of managing for biological integrity and diversity and not suppressing any species to unnaturally low levels for our own benefit, we want to have and are obligated by law to have subsistence opportunities, but if we were to practice intensive management on a refuge, where we severely depress the black bear or wolf population, that would be contrary to our statutes; we had numerous discussions with ADF&G about this, they understand that it limits what they can do on refuges; a good example is the Alaska Peninsula, there was a part of it where the State could implement intensive management and they did, removed wolves, and the caribou population responded to some degree; we have different mandates, we respect each other's mandates, the federal and state constitutions have separate standards, if we work together, we can do good things and still respect and implement each other's mandates

Follow-Up: I think the Service has taken it much further than the State every thought about, using the herd on the Alaska Peninsula as an example, prey numbers in the area where predator hunting was disallowed did not support subsistence, I greatly fear this situation with the Northwest Arctic herd and the cyclic nature of that, I remember the last low of that herd and the impact to subsistence hunters, it was an ugly situation, people were really affected, so were Dall sheep, so were moose, so were predators; things vary wildly, it's an unnecessarily naïve policy

Q: Representative Keller [1:22:00] – If you have any other comments that document a conflict with local land use for adjacent communities, certainly we're not the only ones bringing this to your attention, your regulations talk about how you're supposed to monitor how the plans affect adjacent communities; Commissioner Lean just said it very well, wondering if you have additional evidence of conflicts

A [Mitch Ellis]: Land use conflicts, for example, Native Corporation lands, RACs, ACs, moose management plans, land use plans in conflict with the refuge mandates or statutes, we generally try to work with those groups, testify at RACs, BOG/BOF meetings, to communicate effectively and implement plans that make sense for everybody; cannot think of any conflicts, off the top of my head, we do get predator reduction requests, and while there is some science that supports effective predator management (trying to reintroduce species or effect short term change), but long-term impacts are molded by environmental factors, including predation; long-term is different than short-term, we use short-term frequently, the State's intensive management is a focused program, done very well at affecting short-term change; the land use conflicts have not been that drastic

Comment: Warren Olson [1:25:27] – Your presentation is contrary to our most fundamental rule in the book, which is the constitution of the State of Alaska, where we have a mandate to seek maximum benefits, sustained yield, it's not do we follow this or not, we follow the rule book; I see no need to have the Service out there managing in its position, to be on those refuges, other than a person to keep track of number of people on the land at any particular time, because where you're going is possibly into hundred year cycles, a priority on nothing is nothing, this is a dangerous area; under recorded history and folklore, we have a long history of people having to leave when there's no food, you have to be economic and practical, but you're telling us that, with a national mandate, you're subjecting Alaskans and all others that have a desire to take a picture, walk the land, harvest food, to see this destruction; we have a history in the late 40s in southcentral, we had no moose, the Service eliminated every predator it could and, at the latter part of the 50s, there was a reasonable chance to harvest a moose, your agency did that, it solved the problem, but we don't need what you're doing now

Q: Mark Fish [1:28:46] – you mentioned the U.S. Constitution mandate, which part mandates federal wildlife management

A [Mitch Ellis]: My intent referencing that is based on when federal reservations are created, the U.S. retains authority rooted in the Property Clause, the Commerce Clause, some other clauses that bind federal interests, so it isn't to usurp state authority, we defer to the State, the policies read that we defer on national wildlife refuges to the extent practicable and consistent with refuge purpose, so it does not mean we relinquished authority to manage, nothing in ANILCA intended to amend the Alaska Constitution or give up federal rights/authorities, that's where it's rooted; where there are jurisdictional issues, we go back to the Property Clause of the Constitution

Q: Representative Keller [1:31:30] – thank you for dialoging with us; there is a fundamental tension, how do you determine when our regulations are there to have a harvestable surplus of a natural resource, which ones alter natural diversity, have you coordinated your agency's planning and management with the land use planning and management of the State, as required by federal law

A [Mitch Ellis]: Yes, all our Comprehensive Conservation Planning efforts have had DNR and ADF&G staff on the core planning team, the State monitors and provides comments on our actions and we reciprocate and participate in their planning efforts, as well as other federal agency planning efforts; it would be hard to do anything in isolation anyway, we like partnering, it's routine for us

Follow-Up: The fact our agencies have been involved, does that presume we have monitored effects on adjacent communities, do we need to pay more attention on our end to make sure affected vicinities are being heard and their concerns are brought forward

A [Mitch Ellis]: Absolutely, we want to reach out to each community and have started conversations with Native organizations, in routine business, not just planning efforts, we are part of the community, our field stations are embedded there, we have Refuge Information Technicians, usually hired from the villages as liaisons, we are working with University of Alaska for more direct hire opportunities for rural Alaskans, we have many but would like more, we should reflect what Alaska looks like, I agree with the concerns and that we need to work together better and listen to each other's concerns

Comment: Frank Woods [1:36:04] – thank you for listening, you have great staff on the ground, I don't mean to attack anyone, I think this closure process, I would caution, there is a long-range impact once it is in the law, I don't feel comfortable as a subsistence user and Alaskan that this is going to be any benefit to anyone but the Service; I understand that this is coming from nationwide protocol, you can look at examples all over the country that predators are or are not beneficial, you have a charge, and I appreciate it, but the impact is not looked at with consideration of implementation in Alaska, it's a done deal what I hear and what I see, and I want to caution you, we can't feed the village with refuges as a land base, villages need access to resources and to feed themselves, has the Service looked at the basic needs for subsistence to even determine how much each village needs to feed its residents, do plans look at that, and if not they should; define subsistence and impacts to it, just look at the Alaska Peninsula

3:00p.m. Public Participation

Time stamp on the recording at

No one on the phone or in the room

Agency Report from NPS – John Quinley, Communications Director

Time stamp on the recording at

Agency Report from DOL – Mike Schechter, Assistant Attorney General

Time stamp on the recording at

Federal Lands Long Range Transportation Plan, Implementation Update – Eric Taylor, DOT&PF

Time stamp on the recording at

Angoon Airport, Planning Update – Verne Skagerberg, DOT&PF

Time stamp on the recording at

4:50p.m. – Adjourn for the Day

SATURDAY, JANUARY 31, 2015

Commissioners Present (all): Rod Arno, Senator John Coghill, Mark Fish, Teresa Hanson, Representative Wes Keller, Charlie Lean, Kathleen Liska, Mike Meekin, Warren Olson, Susan Smith, Ron Somerville, Frank Woods

9:02a.m. – Call to Order

Agency Report from DOL (cont) – Mike Schechter, Assistant Attorney General

Time stamp on the recording at 00:36

- General litigation strategy of new administration vs. aggressive position under former: where the Attorney General and the Governor work through these issues, there are many active cases and they are diligently working through them, the general litigation strategy will be shown over time
- Sturgeon case: decision to appeal being worked on, will work with director to address questions
- Waters of the U.S. Rulemaking: detailed comments submitted by CACFA and the previous administration, expecting a final rulemaking to happen in the April timeframe, waiting to hear from Governor on what approach will be, expect plenty of participation in a challenge to the law
- Ownership of navigable waters cases:
 - o Mosquito Fork scheduled for trial in August, preparing for it, will address both factual and legal issues that reach state ownership of submerged lands based on navigability in fact, decision in State's favor should allow federal government to better address Recordable Disclaimers of Interest and support an efficient process going forward
- Tongass Roadless Rule cases:
 - o Exemption was heard in Alaska District Court, three-judge panel of the 9th Circuit earlier last year reinstituted exemption to the Roadless Rule, en banc panel heard argument on December 15, decision could be sometime this year
 - o Challenge to Roadless Rule itself in D.C. court, trial court dismissed State on timeliness, D.C. Circuit overturned and remanded
- RS 2477 cases:
 - o Chicken area (6 ROWs), Judge Beistline had thrown out most of the case under the theory the U.S. had not waived sovereign immunity and was not a party, that is before the 9th Circuit on appeal, the State's brief is due February 4, briefing should be done soon and oral argument scheduled later this year, with decision to follow, rest of the case is on hold until 9th Circuit resolves that fundamental issue on RS 2477s over Native allotments
 - o Dixon case (Iditarod Trail), scheduled for trial in January 2016, in the middle of summary judgment briefing on a number of the issues in the case, difficult to resolve by mediation
 - o Ahtna case, long section of Klutina Lake Road, State just won a motion to compel, a number of different field work tasks required to understand what was used when, trial scheduled for late (October?) 2016 but may take much more time to complete discovery
- Pebble cases:
 - o Challenge to EPA authority to enter 404(c) process to remove area as a disposal site, stop dredging or filling before permit application has been filed, Alaska District Court ruled

- that, because EPA's decision had not been entered, challenge was premature, that is on appeal to the 9th Circuit (State is not participating)
- FOIA case for Bristol Bay Watershed Assessment, public records case, whether all the documents were given, all the redactions appropriate, not much "remedy" or impact here
 - FACA case for Bristol Bay Watershed Assessment, 1970s era law to control spiraling costs but also allows unwinding of decisions by improperly designated advisory groups, currently before Alaska District Court, much of it dismissed but some allowed to proceed as some triable issues exist as to whether FACA was violated, has stayed the EPA's entire 404(c) process pending resolution of that issue
 - King Cove Road: Secretary issued Record of Decision denying a land exchange, the Native Corporation and village sued the Secretary on procedural issues on whether NEPA was followed and the Secretary acted within her authority to deny the Congressionally authorized land exchange; a number of issues were thrown out under motions to dismiss, those survived, was process conducted and is the decision supported, can the agency make that decision not arbitrarily or capriciously; a properly-show-your-work case
 - ANWR Boundary: PLO 2214 initially set up the withdrawal of the Range, process started before statehood and finished after, Original 84 case filed in 1970s took until 80s-90s to complete set the boundary where the State's interest in off-shore areas stops, withdrawal for the refuge extends to the high water mark, the issue is the Canning and the Stainds rivers, the original withdrawal went to the Canning River but the boundary map shows the Stainds River, west of the Canning on a map, difference is about 20,000 acres with offshore and onshore implications; if that area has not been withdrawn it is open to selection and has been top-filed, Governor Parnell requested conveyance of that area, BLM has said they are looking at it

Questions

Interspersed throughout presentation summarized above

Q: Teresa Hanson [21:26] – where is the Dixon case located on the Iditarod Trail

A: In the Mat-Su Valley, quite near Iditarod Headquarters

Q: Charlie Lean [24:29] – how does DOL work with DOTP&F on the RS 2477 cases, Klutina Lake Road is potentially a state highway, as are others

A: DOL team includes both DNR and DOT attorneys, representatives of state agencies cooperate, DOT helps with the field work, road improvements, making it passable for vehicles

Follow-Up [Representative Keller]: If you see any slackening on this as a priority, please let us know, we're just getting to know the Governor, encouraged but would just like to know

A: Kent Sullivan's full role is funded through DNR to address RS 2477s and related issues, he spends almost all his time on that

Q: Ron Somerville [27:14] – has DOL proposed to amend the Quiet Title Act

A: That has not been addressed with the new administration yet, from the attorney's perspective that would be great, not helpful for the agencies to delay, would help manage state rights

Q: Representative Keller [35:08] – in reading the briefs for the Pebble FACA case, can you get some idea of the groups involved in this litigation

A: Amount of interest in Pebble Outside is majorly high; State not a party in this case but you see from the very lengthy complaint that there were a lot of emails going between a lot of groups, scientists, lobbyists, environmentalists, the judge needs to decide whether that created an advisory group and determine what impact that had

Q: Warren Olson [37:10] – Judge Holland is retired, has the State ever tried to ask for another judge

A: Not aware of any effort to bypass Judge Holland, he's in senior status and still active on the bench with a reduced case load; where we participate, we are only intervenors in the Pebble cases

Follow-Up: I should hope we ask to get around Judge Holland in all actions in the future

Q: Frank Woods [39:14] – Pebble case is huge, in the early stages the senate and house requested a letter for some sort of assessment, set aside money for hearings and testimony, has that put us in an awkward position in how this falls out; the takings is a huge issue, scary position to be a middle man, who is going to be responsible for the assessment, the money lost, the actual takings part

A: I would characterize what is before the 9th Circuit differently, the State has several roles with regard to the mine, it owns the land, it permits, that is not unusual, the issue before the 9th Circuit is, for the State, is the potential permittee getting a fair shake or is the federal agency jumping the gun, where does their information come from, why can't the State and ACOE have the first crack to define the mine, condition the mine, so many processes that have to happen and collect/review information, can EPA say it's off limits before anyone has articulated what is going to happen there, before our robust environmentalist community has challenged these agencies on their processes, none of that can take place because EPA has preempted it for anyone ever under its own defined circumstances

Q: Ron Somerville [48:42] – discussed with Governor Parnell the possibility of exchanging eelgrass beds, they make the Izembek Refuge, nothing to prohibit State from exchanging tidelands for that ROW, why isn't that sort of option pursued

A: Will raise that with DOL and DNR, would caution that this land would then be in the refuge and then argue the road impacts eelgrass beds, may not solve core issue

Q1: Kathleen Liska [51:07] – how many attorneys are employed by the State to work on these issues

A: Hard to say; just on Izembek alone, there are Kent Sullivan and I working on unnamed options, assisting DOT attorney with strategy, and everyone has varying case loads with varying amounts of federal issues; Jessie Alloway heads up navigable waters, Anne Nelson works on ANILCA, Arctic, I work on various issues, Kent Sullivan works on RS 2477s, Colleen Moore works on these issues, a core of maybe 7-10 folks that work directly or almost all/significant portion of caseload being these issues

Q2: Is there a case history report where we have lost since ANILCA implementation began

A: A number of white papers have addressed the history of statehood defense issues, a substantial briefing was offered at the Federal Overreach Summit, my report last year and this year would be an addendum to that, I don't believe there's a numerical assessment

Federal Subsistence Board Closure Update – Jennifer Yuhas, ADF&G (by phone)

Time stamp on the recording at 62:40

- Federal Subsistence Board implemented subsistence priority for herring around Maknahti Island, near Sitka, despite a lack of a conservation concern required under ANILCA Section 815
 - o 60-day window to appeal, ADF&G considering a request for reconsideration
 - o Waiting on transcripts to make sure everything we think happened is a matter of record

Questions

Q: Frank Woods [66:06] – will the decision be appealed because they didn't meet the criteria for closure, did the RAC propose this, where did the proposal come from

A: Proposal brought by Sitka tribes, a perennial proposal, was supported by the RAC this year, but Board acted outside its Section 815 authority as concerns were demonstrated to be absent

Follow-Up: Have to support tribe's request, lack of active management and exploited resources, we see this along every avenue of fish and game management, population growth and increased pressures, just cut off the non-federally-qualified subsistence users ("other" users), want to read more about process
A: Also closed to state subsistence users, other nearby users who consider themselves subsistence herring fisherman but they are also closed; similar to Red Sheep Creek closure, big process issue

Comment: Ron Somerville [70:33] – this is not a subsistence issue, this is a state sovereignty issue, this is state waters, if the Board has the authority to close the fishery here, they have it everywhere over submerged lands; this is a crucial issue, can they extend their jurisdiction to close down, for instance, False Pass, we should not be pulled into this being a subsistence issue

Comment: Warren Olson [71:41] – good reference here is Totemoff v. Alaska, plain and simple, as Mr. Somerville said, on seaward control of navigable waters, state is in control on sovereign issues

BREAK

Time stamp on the recording at 74:34

Reconvene

Time stamp on the recording at 87:35

Report on Pending U.S. Fish & Wildlife Service Rulemaking – Sara Taylor

Time stamp on the recording at 88:14

- National rulemaking for the entire refuge system to manage oil and gas development on refuges
- Issues Outside are that it has not been managed on a consistent basis; Alaska does not have those issues, since ANILCA provides a mandatory process
- State tried to advocate for an Alaska exemption commenting on the Advance Notice of Proposed Rulemaking; Service representatives stated the regulation will apply nationwide, no exceptions
- Proposed rule purportedly scheduled to come out this year, not sure when

Questions

Q: Senator Coghill [92:58] – any idea of scope of impacted inholdings in Alaska, can we point to them and how do we encourage other comments, who can w

A: It's actually quite rare to have subsurface inholdings in a refuge in Alaska, which is very much a product of ANCSA, the concept of split estate in Alaska is very unique, unlikely D.C. decision-makers will grasp it; it happens in Yukon Flats and in the Kenai Refuge, possibly elsewhere, some adjacent areas could also be at risk and we would not be aware of them as inholdings yet

Follow-Up: Doyon had some interest in the Yukon Flats area in inholdings and the buffer zone areas, and it seems it might have an impact both ways, will ask some Doyon landholders their opinion, anything in the northwest Arctic you're aware of

A: There are significant inholdings in the northeast and northwest which could provide access to non-federal subsurface resources; significant subsurface inholdings in the Kenai Refuge; Yukon Flats Land Exchange fell apart, inability consolidate for Doyon left them a land holdings mosaic, this rulemaking will impact their ability to develop separate inholdings

Q: Ron Somerville [97:27] – some concern should be that these things morph, may not be parks now but could be later, will BLM pick it up, even; approach might also impact transportation of oil and gas across refuges, Alaska Peninsula has span of refuges which could block access to Bristol Bay

A: This could have implications for access in any respect when it comes to oil and gas; there was a similar effort by the NPS but they exempted Alaska, but we couldn't "reverse morph" the exemption

Agency Report from DOL (cont) – Mike Schechter, Assistant Attorney General

Time stamp on the recording at 101:30

- ANWR 1002 Exploration case: is now in Judge Gleason's hands, had oral arguments two weeks ago; question of whether or not the State can submit, and the USFWS accept and review, an exploration plan for the coastal plain, Interior believes authority to accept and approve such plans expired with its submission of a recommendation in the 1980s, the State believes ANILCA Section 1002 requires the Service to review plans with no end date pending Congressional action
- Triple hit from administration in last few weeks, recommending Wilderness in ANWR and foreclosing oil and gas leasing opportunities in Arctic and Bristol Bay offshore areas

Questions

Comment: Ron Somerville [110:00] – recommend amending Quiet Title Act; exempt State from FACA as government-to-government; Maknahti Island action by Federal Subsistence Board is a jurisdictional issue, sometimes attorneys use everything possible and it creates dangerous situations giving courts a chance to go beyond the issues and I would hope we don't get into the conservation issues, should be simply that there is no jurisdiction; need resolution on this to solve the subsistence, transportation, submerged lands, and all other issues, get the courts to focus

Comment: Rod Arno [113:40] – the public has spoken, amici have spoken, groups have spoken, donated, we want to get to the end of the Sturgeon case, no matter what the percentage of success, we have to get to the end of this jurisdiction issue, been doing it for decades, don't just look at the odds

A: Spoke with Sturgeon attorneys on timing, the State's petition is due March 16, attorneys working very hard with leadership to inform the Governor and ensure full and complete information is brought to bear on whether or not to petition; I will ensure they have CACFA's concerns included in the dialogue

Comment: Warren Olson [117:30] – having been through this a number of times in 35 years, I would request the trustees get together with the administration, we need a policy in the Attorney General's office that, upon announcement by the Governor that the State is joining a citizen suit, it will be straight through to the Supreme Court; the Department should not be mulling over whether to do so in the seventh inning, we expect nine innings, a lot of people invested in that last inning, it should be a policy; Park Service regulations violated the sovereignty of Alaska

Q: Kathleen Liska [121:28] – is DOL working with DNR on budget cuts and all the background that DNR provides, continue to move these cases forward and advance new cases; CACFA cannot do the research, we are volunteers

A: Those discussions are underway in terms of coordination, how litigation is addressed in the future

Q1: Frank Woods [122:56] – are the federal lands in the Chicken case Native Corporation lands

A: The State is a plaintiff, asserting that there are six RS 2477 ROWs traversing a number of different lands, there are pre-statehood allotments, some corporation land and some federal land

Q2: Jurisdictional issue Commissioner Somerville was talking about, we might get what we ask for but it might not be what we want, been going on since statehood, came to light in ANILCA, trench was formed, still fighting in that trench, I hope we're not mulling over the same issues in another 35 years; there is progress, thank you for the update, for your Saturday

Comment: Charlie Lean [126:47] – Arctic policy refers to healthy communities, I have the longest tenure of any fish and wildlife manager in the American Arctic, this document is the view of an airliner flying the circumpolar route and I've been on the ground looking up, the regulations and policies being

set are directed at large industry, lose track of people living out there and making a living; closing commercial fishing, little artisanal fisheries close down, too, there's other examples; one size does not fit all and opportunities should be available to the local public to make a living; policy is well intentioned and addresses view from space but misses fine details that make sustaining a local economy possible

Comment: Ron Somerville [130:22] – Endangered Species Act litigation usually deals with processes, but there is no one piece of federal legislation that will have as great an impact as that act; maybe we're in a good position in 2016 to make changes to the act, which is required for relief, we've come close

Motion Rod Arno [131:40] – encourage State to take all action necessary action to support the John Sturgeon case to the U.S. Supreme Court.

Ron Somerville – second.

No Objections

Agency Report from Public Access Assertion & Defense Unit – Scott Ogan, Unit Manager

Time stamp on the recording at 133:25

- Staff review BLM conveyances as they come in, review historical documents and photographs, to find where 17(b) easements might be asserted; very important function, ounce of prevention saving decades of expense, efforts, ill feelings and anxiety (which we've seen first hand)
- Icy Straight case, lost the Glacier Bay Park part but found State owns tidelands in Tongass, withdrawal was for forests which are not in the tidelands
- Skagway River, bed load so intense have to keep river from going into city, brings gravel down
- Mosquito Fork, not trying to get an answer on its navigability so much, more about standards for navigability, solid case law to build other cases on, going to trial August 2014
- Overview of PAAD missions and day-to-day, significant consequences of not doing this work: impacts to mining, pipelines, resources in/under those beds; access conflicts; witnesses suffering from natural attrition; locked-up lands in ANCSA selections/conveyances, need to protect access, RS 2477s can be over when it's over; litigation support, technical expertise and funding
- Fog Lake down by Iliamna, worried state lands are being erroneously conveyed by BLM, creates conflict; even if they do own it, public trust doctrine allows for access to waters by the public
- Stikine River, going on four years waiting following win in IBLA appeal

Q1: Ron Somerville [158:30] – drivers of submerged lands litigation are industries like oil and gas, mining, gravel extraction, but fisheries jurisdiction is important, also

A: DNR not usually involved in fisheries, but we all know about the reserved water rights doctrine

Follow-Up: DNR drives the litigation, have to include ADF&G's interests in fisheries

A: Will consult with attorneys on that

Q2: Where will the Mosquito Fork litigation set a precedent not set by the Gulkana case

A: Quite a bit actually, have to be careful discussing litigation strategies, but this is a comprehensive look at watercraft, poling boat discovered in Chicken, documenting a different standard than Gulkana; lowering the bar on what is navigable based on available boats

Follow-Up: Federal agencies frequently ignore Gulkana, even though we point to it as precedent, are we taking the right tact because we're not gaining much ground

A: Gulkana is being systematically removed from their files, not just ignored

Q: Rod Arno [164:22] – remember ANILCA hearings and having people say these units will not prohibit our access to public lands, had this hope Title XI was not going to be a problem, it's wired in, you'll have access, has PAAD spent any time looking as using Title XI to get access

A: Yes, we do look at that, paramount in other areas, as well; ANILCA Implementation Program so important in letting regulators know what the law means; State has been reactively commenting, not getting in early, State should do more proactive approaches, head things off, but it takes resources

Q: Warren Olson [168:10] – in the newspaper recently, had article on collecting ice for summer use from frozen lakes in the winter, responsibility for the State to identify these watercrafts being licensed and recognized, not an activity for the federal government to be engaged in; need to change state statute to include the five months of that water when it's frozen in a navigability/commerce analyses

A: State definition in statute on navigability would not stand up in federal court for ownership, too broad (Daniel Ball case, some 10th Circuit cases); different navigability for title and for public trust, worthy exercise to include ice uses but might not help much in federal court

Comment: Frank Woods [171:30] – see groups injecting themselves into the process early, have CACFA write letter to Governor's office to inject itself at every state level before scoping, throughout the whole process, in favor of being proactive instead of reactive

Comment: Sara Taylor [173:00] – ANILCA Implementation Program is the means by which we engage throughout the process; as just one example, we have a huge body of comments submitted throughout the entire ANWR planning process; relies on federal agency willingness to share things with the State, the ANILCA Program could not be more open to that; if it looks like we're falling down, it was probably sprung on us

11:30a.m. Public Participation

Time stamp on the recording at 146:48

No one on the phone or in the room

LUNCH

Reconvene

Time stamp on the recording at 00:13

Follow-Up to January Work Session

Time stamp on the recording at 00:25

Proposal from Revolution Media [00:42]

-

Energy Producing States Coalition – Senator Cathy Geissel

Time stamp on the recording at 109:08

- Senator Geissel is chairing
- Board made up of representatives from Idaho, Nevada, North Dakota, Wyoming
- Partners with Consumer Energy Alliance, supplying coalition with staff time
- Monthly newsletter

New Meeting Date

Time stamp on the recording at 115:30

- Proposal: June 5-6 – conflicts (Kathleen Liska)
- Proposal: June 12-13 – set

3:30p.m. Public Participation

Time stamp on the recording at 116:55

Pat Matrisciana [117:20] – principal at Revolution Media; watching federal overreach across the country, has great appreciation of the vastness of the knowledge of CACFA, watching meeting very intently and taking notes, sees a great resources in this commission; thinks in sound bites and issues, feels, as a group, we should come up with the most pertinent issues and develop sound bites on them, so we have it set in our minds if we are called in for talk shows or similar; this is a very, very necessary commission, very impressed, know what we have to go through (bureaucratic necessities); suggest we pick issues and points for these issues

Scott Ogan [119:50] – not representing DNR; thank you for the nomination to ASLAG, suggests we put together the playbook for the next administration and possibly task some of the members with tracking administrative orders and policy changes for the last six years that have hurt Alaska, have that list ready to present, build coalition of like-minded states who also have a list, meet and get agreement on those issues, leverage through various groups and relationships, and put on next President's desk, who will hopefully see fit to undo these injustices; this idea was his main takeaway from Bill Horn's speech at the Federal Overreach Summit, and now is the time to do it

Elections – Chairman, Vice-Chair & Executive Committee

Time stamp on the recording at 122:33

Chairman

Charlie Lean – I nominate Wes Keller.

Ron Somerville – I move that nominations close.

Warren Olson – second.

No Objections

Wes Keller accepts [123:54]

Vice-Chair

Rod Arno – I nominate Mark Fish

Warren Olson – second.

Ron Somerville – I move that nominations close.

No Objections

Mark Fish accepts [124:30]

Executive Committee

Susan Smith – I ask our very capable current Executive Committee members, Rod Arno and Charlie Lean, stay on in their positions.

Senator Coghill – second.

Ron Somerville – I move that nominations close.

No Objections

Both accept [125:50]

Outreach Subcommittee

Ron Somerville – I would like to volunteer for the Outreach Subcommittee.

No Objections

Alaska State Lands Advisory Group – Discussion

Time stamp on the recording 126:35

Susan Smith – Should a commissioner be appointed to ASLAG

Ron Somerville – You're only allowing eight people, commissioners are very involved and will be taking recommendations from this group, not opposed but feels duplicative

Wes Keller – I believe we are all welcome at the table already, I believe ASLAG is there to come back with recommendations on what we should do on the issue related to federal lands versus state lands, if there is an action we should take

Commissioner Closing Comments

Time stamp on the recording at

4:40p.m. - Adjourn

Time stamp on the recording at

Roll Call

Somerville (Y); Fish (Y); Liska (Y); Smith (Y); Arno (Y); Woods (Y); Lean (Y); Hanson (Y); Chairman (Y)

Advisory Group Resolution Passes

Time stamp on the recording at 5:38:46

Ron Somerville – Move to approve expenditure on digitizing archives, estimate of \$12,000-15,000.

Time stamp on the recording at 5:40:13

Mark Fish – Second.

No Objections